



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

DOCKET NO.: SDWA-08-2005-0056

IN THE MATTER OF:

Doris Sherman  
Restway Trailer Park  
P.O. Box 5088  
Cheyenne, Wyoming 82009

RESPONDENT

)  
)  
)  
) **FINAL ORDER**  
)  
)  
)  
)  
)

Pursuant to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3), of EPA's Consolidated Rules of Practice, the Combined Complaint and Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 14, 2005  
DATE

Alfred C. Smith  
Alfred C. Smith  
Regional Judicial Officer

2005 SEP 14 AM 11:43

FILED  
EPA REGION VIII  
ANDRING CLERK

**) COMBINED COMPLAINT AND  
) CONSENT AGREEMENT**

Docket No. SDWA-08-2005-0056  
PWS ID # 5601292NC

## PRELIMINARY STATEMENT

1. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. ("Consolidated Rules of Practice") (Attachment 1). This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. Complainant has jurisdiction over this matter pursuant to section 1414(g)(3) of the Safe Drinking Water Act, as amended ("Act"), 42 U.S.C. § 300g-3(g)(3).
3. Respondent admits the allegations contained herein in this consent agreement.

4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in this consent agreement.

5. This consent agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

6. This consent agreement contains all terms of the settlement agreed to by the parties.

7. Respondent is an individual and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

8. Respondent owns and/or operates a system, the Restway Trailer Park Water System (the "System"), located in Laramie County, Wyoming for the provision to the public of piped water for human consumption.

9. The System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

10. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.

11. The System is supplied solely by a ground water source. The system serves an average of 40-70 persons daily through 73 service connections and is open from May 1 through September 30.

12. On May 1, 2003, EPA issued an Administrative Order (Administrative Order") (Docket No. SDWA-08-2003-0011) to Respondent pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations ("NPDWRs") (40 C.F.R. part 141). A copy of the Administrative Order is attached to this consent agreement and incorporated herein (Complainant's Attachment 2).

13. The Administrative Order required Respondent, among other things, to achieve compliance with the NPDWRs that Complainant found Respondent violated.

14. On February 13, 2004, Complainant sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the Administrative Order and the NPDWRs. (Complainant's Attachment 3).

## **VIOLATIONS**

### **Count I**

#### **Failure to Monitor for Total Coliform Bacteria**

15. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

16. Page 5, paragraph 1 of the "Order" section of the Administrative Order required Respondent to comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to comply with the MCLs as stated in 40 C.F.R. § 141.63. The

paragraph also required Respondent to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

17. Respondent failed to perform quarterly bacteriological monitoring in the third quarter (July through September) of 2003 and the third quarter (July through September) of 2004, in violation of the Administrative Order and 40 C.F.R. § 141.21(a).

**Count II**  
**Failure to Notify the Public**  
**of NPDWRs Violations**

18. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations.

19. Pages 6-7, paragraph 3 of the "Order" section of the Administrative Order required Respondent, within thirty (30) days after the effective date of the Order, to provide a public notice for the violations specified in the Administrative Order and to comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

20. Except for the public notice Respondent provided for the September, 2002 violation for failure to collect at least five (5) routine samples after a total coliform positive sample in the preceding month, Respondent failed to provide notice to the public of the violations identified in the Administrative Order and the third quarter (July - September), 2003 total coliform violation referenced in the count set forth above, and failed to submit a copy of the public notice to EPA, in violation of the Administrative Order and 40 C.F.R. §§ 141.201 and 141.31(d).

**Count III**  
**Failure to Report Noncompliance**  
**with NPDWRs to EPA**

21. 40 C.F.R. § 141.31(b) requires that except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to EPA within 48 hours.
22. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within ten days after the system discovers the violation.
23. Page 7, paragraph 4 of the "Order" section of the Administrative Order required Respondent to comply with 40 C.F.R. § 141.21(g)(2) by reporting to EPA any failure to comply with coliform monitoring requirements within 10 days after the system discovers the violation.
24. Page 7, paragraph 5 of the "Order" section of the Administrative Order required Respondent to comply with 40 C.F.R. § 141.31(b) by reporting to EPA any failure to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.
25. Respondent failed to report to EPA instances of noncompliance detailed in Counts I and II, as set forth above, in violation of the Administrative Order and 40 C.F.R. §§ 141.21(g)(2) and 141.31(b).

**TERMS AND CONDITIONS**

26. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), and based on the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is the amount of One Thousand Dollars (\$1,000).

27. Respondent consents and agrees to pay a civil penalty in the amount of One Thousand Dollars (\$1,000) in two (2) Five Hundred Dollar (\$500) installment payments. Respondent shall pay the first Five Hundred Dollar (\$500) installment payment not more than sixty (60) days after Respondent's receipt of a signed final order in this matter. Respondent shall pay the second Five Hundred Dollar (\$500) installment payment not more than one hundred and twenty (120) days after Respondent's receipt of a signed final order in this matter. At any time prior to one hundred twenty (120) days after Respondent's receipt of a signed final order in this matter, Respondent may pay in full the remaining unpaid balance with no penalty. If Respondent fails to pay an installment payment, Complainant may demand the full penalty amount plus interest immediately due (including, but not limited to, the remedies set forth in paragraph 29).

28. Each of the payments described in Paragraph 27 above shall be made by remitting a cashier's or certified check, payable to "Treasurer, United States of America," to:

Mellon Bank  
EPA Region 8  
(Regional Hearing Clerk)  
P.O. Box 360859M  
Pittsburgh, PA 15251-6859

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action. A copy of the checks shall be sent simultaneously to:

Michelle Marcu  
Enforcement Attorney  
U.S. EPA Region 8 (8ENF-L)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and

Tina Artemis  
Region 8 Hearing Clerk  
U.S. EPA Region 8 (8RC)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

29. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if the penalty is not

paid when due. Interest will be assessed at the current value of funds due to the United States Treasury. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 40 C.F.R. § 13.11

30. Nothing in this consent agreement shall relieve Respondent of its obligation to comply with the Act and its implementing regulations.

31. Failure by Respondent to comply with any of the terms of this consent agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

32. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this agreement.

33. Each undersigned representative of the parties to this agreement certifies that she is fully authorized by the party represented to bind the parties to the terms and conditions of this consent agreement and to execute and legally bind that party to this consent agreement.

34. The parties agree to submit this consent agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

35. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this consent agreement.



36. This consent agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations contained in this consent agreement.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

Date: 9-8-05

*for* Eddie A. Sierra  
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 9-2-05

Michelle D. Marcu  
Michelle D. Marcu  
Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466  
Telephone Number: (303) 312-6921

Date: 8-29-05

Doris Sherman  
Doris Sherman  
Restway Trailer Park  
Respondent.

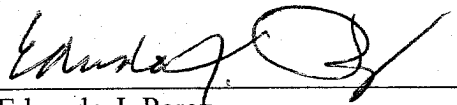
### CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT and CONSENT AGREEMENT and FINAL ORDER** in the matter of **DORIS SHERMAN, RESTWAY TRAILER PARK, DOCKET NO.: SDWA-08-2005-0056** was filed with the Regional Hearing Clerk on September 14, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michelle Marcu, Enforcement Attorney, U.S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. A True and correct copy of the aforementioned document was placed in the United States First Class Mail to:

Doris Sherman  
Restway Trailer Park  
P.O. Box 5088  
Cheyenne, Wyoming

9/14/05  
Dated

  
\_\_\_\_\_  
Eduardo J. Perez  
Acting Regional Hearing Clerk



develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input to the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. This rule does not impose any enforceable duties on these entities. Instead, it merely revises the procedural rules governing EPA's administrative enforcement proceedings.

#### F. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the E.O. 13045 because it is not "economically significant" as defined in E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

#### G. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the

development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 22

Environment protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 30, 1999.

Carol M. Browner,  
Administrator.

Therefore, 40 CFR part 22 is revised to read as follows:

### PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS

#### Subpart A—General

##### Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

#### Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

#### Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

#### Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

#### Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

#### Subpart F—Appeals and Administrative Review

- 22.29 Appeal from or review of interlocutory orders or rulings.
- 22.30 Appeal from or review of initial decision.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

MAY - 1 2003

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Diane Humphrey  
Laramie County Commissioner  
PO Box 608  
Cheyenne, Wyoming 82001

Re: Notice of SDWA Enforcement  
Action Against  
Jess and Doris Sherman  
Restway Trailer Park Public Water System  
PWS ID#5601292 N

Dear Ms. Humphrey:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

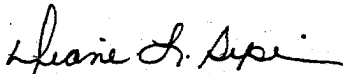
An Administrative Order is being issued under Section 1414 of the SDWA to Jess and Doris Sherman, owners/operators of the Restway Trailer Park Water System, 4212 Whitney Road (east of Cheyenne on Pershing Boulevard) Laramie County, Wyoming. This Order requires that the Shermans take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. Restway Trailer Park Water System has violated 40 CFR §141.21(a), §141.21(b), §141.21(g)(2), §141.201, and §141.31(b) for failure to: monitor for total coliform bacteria; collect five routine total coliform bacterium samples the month following a total coliform positive sample; report total coliform noncompliance to EPA; provide public notice; and report SDWA violations to EPA within 48 hours.



Printed on Recycled Paper

A copy of this Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Dennis Jaramillo at (303) 312-6203.

Sincerely,

  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 500  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

MAY - 1 2003

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Jess and Doris Sherman  
Restway Trailer Park  
P.O. Box 5088  
Cheyenne, Wyoming 82009

Re: Administrative Order  
Docket No. SDWA-08-2003-0011  
Restway Trailer Park  
PWS ID #WY5601292 NC

Dear Mr. and Mrs. Sherman:

Enclosed you will find a document entitled "Administrative Order" (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Order finds that you are public water suppliers as defined by the SDWA in violation of the National Primary Drinking Water Regulations (NPDWRs) found at 40-CFR §141.21(a), §141.21(b), §141.21(g)(2), §141.201, and §141.31(b) for failure to: monitor for total coliform bacteria; collect five routine total coliform bacterium samples the month following a total coliform positive sample; report total coliform noncompliance to EPA; provide public notice; and report SDWA violations to EPA within 48 hours.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violation of the enclosed Order may lead to (1) a penalty of up to \$27,500 per day per violation of the Order, (2) a separate penalty for violating the regulations, and/or (3) a court injunction ordering you to comply.

EPA encourages your public water system operator or manager to complete an operator certification training course. The web address for operator certification and training courses is: <http://deq.state.wy.us/wqd/w&ww/SRF/opcert.htm>. Should you have additional questions you may contact either Dennis Jaramillo at 303-312-6203 or Louise Cordova at the Wyoming Department of Environmental Quality at 307-777-7781.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA)



Printed on Recycled Paper

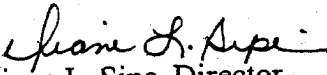


Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Dennis Jaramillo at the address on the letterhead and include the mail code 8-ENF-T, or call (800) 227-8917 X6203 or (303) 312-6203. If you wish to have an informal conference with EPA, you may also call or write Mr. Jaramillo. If you are represented by an attorney or have legal questions please call Thomas Sitz at the above 800 number extension 6918 or at (303) 312-6918.

We urge your prompt attention to this matter.

Sincerely,

  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosures

cc: Larry Robinson, WYDEQ  
Dr. Karl Musgrave, WYDPH

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII

03 MAY -1 AM 11:39

IN THE MATTER OF )

Jess and Doris Sherman, )  
Owners/operators )  
Restway Trailer Park )  
PO Box 5088 )  
Cheyenne, WY 82009 )  
PWS ID # 5601292 )

Respondents )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. §300g-3(g) )

Docket No. SDWA-08-2003-0011

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. §300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Jess and Doris Sherman (Respondents) are individuals and therefore "persons" within the meaning of Section 1401(12) of the Act, 42 U.S.C. §300f(12), and 40 CFR §141.2.

2. Respondents own and/or operate a system, Restway Trailer Park water system, 4212 Whitney Road (east Cheyenne on Pershing) located in Laramie County, Wyoming for the provision to the public of piped water for human consumption.
3. Restway Trailer Park water system regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. §300f(4), and a "transient non-community water system" within the meaning of Section 1401(6) of the Act, 42 U.S.C. §300f(16) and 40 CFR §141.2.
4. Respondents own and/or operate a public water system and therefore each is a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. §300f(5) and 40 CFR §141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. §300g et seq., and its implementing regulations, 40 CFR Part 141.

5. According to a September 18, 2001, sanitary survey, Respondents operate a system which is supplied by a ground water source. The Restway Trailer Park serves an average of 40-70 persons daily through 73 service connections and is open all year.

#### FINDINGS OF VIOLATION

##### I.

1. 40 CFR §141.21 requires public water systems to monitor their water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 CFR §141.63.
2. Respondents failed to monitor the water for contamination by total coliform bacteria during the second quarter (April-June) and third quarter (July-September) 2001, and second quarter 2002 in violation of 40 CFR §141.21.

##### II.

1. 40 CFR 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.

2. Respondents failed to collect at least 5 routine samples in September 2002 after a total coliform positive sample in the preceding month, in violation of 40 CFR 141.21(b) (5).

III.

1. 40 CFR §141.201 requires owners and/or operators of public water systems to notify the public of any National Primary Drinking Water Regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 CFR Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Sections I and II, in violation of 40 CFR §141.201.

IV.

1. 40 CFR §141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 CFR §141.21 to report the violation to EPA within ten days after the system discovers the violation.

2. Respondents failed to report to EPA instances of noncompliance detailed in Sections I, and II, in violation of 40 CFR §141.21(g)(2).

V.

1. 40 CFR §141.31(b) requires public water systems to report any failure to comply with the provisions of the National Primary Drinking Water Regulation, set forth at 40 CFR Part 141, to EPA within 48 hours.
2. Respondents failed to report to EPA within 48 hours the instances of noncompliance described in Findings of violation III above, in violation of 40 CFR §141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with the requirement of 40 CFR §141.21(a) to perform quarterly bacteriological monitoring. Respondents shall comply with the MCLs as stated in 40 CFR §141.63. Respondents shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 CFR §141.31(a).

2. Upon the effective of the date of this Order, Respondents shall comply with all sampling requirements specified in 40 CFR §141.21(b)(5). If Respondents' water system has one or more total coliform positive samples in a month, Respondents shall collect at least 5 routine samples during the next month the system provides water to the public. Respondents shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 CFR §141.31(a).
3. No later than 30 days after the effective date of this Order, Respondents must provide public notice of the failure to monitor violations, to return to compliance with 40 CFR §§141.201, 141.204 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to

- notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 CFR §141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 CFR §141.31(d).
4. Upon the effective date of this Order, Respondents shall comply with 40 CFR §141.21(g)(2) by reporting to EPA any failure to comply with coliform monitoring requirements within ten days after the system discovers the violation.
  5. Upon the effective date of this Order, Respondents shall comply with 40 CFR §141.31(b) by reporting to EPA any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) within 48 hours.
  6. Reporting requirements specified in this Order shall be provided by certified mail to:

Dennis Jaramillo  
U. S. EPA Region VIII (8ENF-T)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466



GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 CFR \$141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g)(3)(A), 42 U.S.C. \$300g-3(g)(3)(A), may subject the Respondents to an administrative civil penalty of up to \$25,000 per day of violation under section 1414(g)(3)(B) of the Act, 42 U.S.C. \$300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. \$300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. \$300g-3(b), may subject Respondents to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. \$300g-3(b).

4. The effective date of this Order shall be the date of issuance.

Issued this 15<sup>th</sup> day of May, 2003.

Diane L. Sipe  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

David J. Janik  
Michael T. Wisner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



Office of Enforcement and Compliance Assurance  
**INFORMATION SHEET**

## U.S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and State environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. Many public libraries provide access to the Internet at minimal or no cost.

EPA's Small Business Home Page (<http://www.epa.gov/sbo>) is a good place to start because it links with many other related websites. Other useful websites include:

**EPA's Home Page**  
<http://www.epa.gov>

**Small Business Assistance Programs**  
<http://www.epa.gov/ttn/sbap>

**Compliance Assistance Home Page**  
<http://www.epa.gov/oeca/oc>

**Office of Site Remediation Enforcement**  
<http://www.epa.gov/oeca/osre>

### Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance on environmental requirements.

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs. Key hotlines include:

**EPA's Small Business Ombudsman**  
(800) 368-5888

**Hazardous Waste/Underground Tanks/  
Superfund**  
(800) 424-9346

**National Response Center**  
(to report oil and hazardous substance spills)  
(800) 424-8802

**Toxics Substances and Asbestos Information**  
(202) 554-1404

**Safe Drinking Water**  
(800) 426-4791

**Stratospheric Ozone and Refrigerants  
Information**  
(800) 296-1996

**Clean Air Technical Center**  
(919) 541-0800

**Wetlands Hotline**  
(800) 832-7828

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 500  
DENVER, CO 80202-2466

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HEARING CLERK

Ref: 8-ENF-W

CERTIFIED LETTER 7003-1010-0002-6364-4478  
RETURN RECEIPT REQUESTED

Jess and Doris Sherman  
Restway Trailer Park  
P.O. Box 5088  
Cheyenne, WY 82009

Re: Violation of Administrative  
Order  
Docket No. SDWA-08-2003-0011  
PWS ID# WY5601292NC

Dear Mr. and Mrs. Sherman:

On May 1, 2003, the U.S. Environmental Protection Agency (EPA) issued to you an Administrative Order, Docket No. SDWA-08-2003-0011, ordering your compliance with the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

Our records indicate that you are in violation of the Administrative Order(the Order). The Order requires the Restway Trailer Park to:

1. Comply with the requirements of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring. Restway Trailer Park shall comply with the MCLs as stated in 40 C.F.R. § 141.63(a)(2). Restway Trailer Park shall report analytical results to EPA within the first ten (10) days from the end of the monitoring period, as required by 40 C.F.R. §141.31(a).

EPA has not received total coliform results for the 3<sup>rd</sup> Quarter (July - September) 2003.

You must take immediate action upon opening in May 2004 to comply with the NPDWRs, 40 C.F.R. Part 141, and Administrative Order, Docket No. SDWA-08-2003-0011. EPA is considering additional enforcement action as a result of your non-compliance with the Order. Violating an Administrative Order may lead to



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(1) a penalty of up to \$27,500 per day per violation of the Order, and/or (2) a court injunction ordering you to comply.

If you have any questions or wish to have an informal conference with EPA, you may contact Michelle Jalazo at 800-227-8917 ext. 6921, or (303)312-6921, or at the following address:

Michelle Jalazo  
Enforcement Attorney  
U.S. EPA, Region 8 (8-ENF-L)  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-246

We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader  
Drinking Water Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH